

# Memorandum

**To:** Consumer Protection Committee  
Mona Maggio, Assistant Executive Officer

**Date:** April 12, 2006

**From:** Lorie Kiley, Lead Analyst CE/Cashier Unit

**Subject:** **Agenda Item IV – Discuss the Definition of What Constitutes Online Continuing Education**

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## Background

In 1992 the California Legislature and the Board of Behavioral Sciences (Board) recognized that licensees must continue their professional development by participating in ongoing continuing education (CE). This was determined to be important because the practice of social work and marriage and family therapy are impacted by rapidly changing social conditions, increased awareness of mental health issues, and the mandate to provide the public with appropriate and effective psychotherapy. Research revealed that participation in CE courses provides licensees the opportunity to enhance their knowledge, skills, and the delivery of services while protecting the public's health, safety and welfare.

On October 12 1995, Governor Pete Wilson signed Senate Bill 26 (Alquist), which implemented a mandatory CE program for Marriage and Family Therapists (MFT) and Licensed Clinical Social Workers (LCSW). Correspondingly, Business and Professions Code Sections 4980.54 and 4996.22 prohibits the Board from renewing any MFT or LCSW license after January 1, 1999, unless the licensee submits proof that he or she has completed 36 hours of CE within the two years prior to renewal.

## Continuing Education Requirements

Title 16, California Code of Regulations (CCR) Sections 1887.3 and 1887.2 require MFTs and LCSWs to complete 36 hours of CE to renew their license, and 18 hours for a first-time renewal. The Board's current policy permits licensees to meet the CE requirement in three different ways:

- Conventional – defined as a course, convention, or seminar where physical attendance is required.
- Self-study (home-study) –defined in CCR Section 1887(b). A “self-study course” means a form of systematic learning performed at a licensee’s residence, office, or other private location including, but not limited to, listening to audiotapes or participating in self-assessment testing (open-book tests that are completed by the [licensee], submitted to the provider, graded, and returned to the [licensee] with correct answers and an explanation of why the answer chosen by the provider was the correct answer. (Amended February 1, 2003)
- Online – defined as a course taken on a computer, or any home study course where a participant can fax or email his or her post test back to the provider.

Licensees are permitted to take an unlimited amount of continuing education by conventional or online means. However, hours earned through self-study courses are limited as follows:

- Twelve (12) hours or one-third of the 36 total CE hours required during a single two-year renewal period (16 CCR Section 1887.3(a).
- Six (6) hours or one-third of the 18 total CE hours required for first-time license renewals (16 CCR Section 1887.2(a).

*Effective February 1, 2003, licensees were permitted to obtain all required hours of CE through interactive, electronic means. This includes online courses, teleconferencing and videotape viewing.*

Board policy defines the difference between “self-study” and “electronic” CE courses as *the method by which the post-test is given*. If the post-test is submitted to the provider through the *mail*, the hours are considered “self-study” and are *limited to one-third of the total hours required*, even if the method of learning is the same (i.e., reading a book, watching a video). If the post-test is submitted *electronically*, the hours are NOT considered “self-study,” count as “online” CE, and is not limited. Electronically includes submission by fax.

In 2005, the Board completed a sunset review by the Joint Committee on Boards, Commissions, and Consumer Protection. The Joint Committee expressed concern that licensees could obtain all CE online. It is additionally concerning to staff that the definition of the different types of courses, with the exception of self-study, are established by board policy rather than by regulation.

#### Discussion

In surveying other boards, staff found that the boards which limit online courses treat the online and home study courses equally; there is no distinction. Of those boards surveyed below, only the Pharmacy, Optometry, Vocational and Registered Nursing boards have an approval process for providers.

BOARD NAME	REQUIRE CE	ALLOW ONLINE	LIMIT ONLINE HOURS	ALLOW HOMESTUDY	LIMIT HOMESTUDY HOURS
Medical Board	YES	YES	NO	YES	NO
Pharmacy	YES	YES	NO	NO	N/A
Psychology	YES	YES	YES: 1/2	Considered the same as on-line	
Vocational Nursing	YES	YES	NO	YES	NO
Registered Nursing	YES	YES	NO	YES	NO
Optometry	YES	YES	YES: 1/2	Considered the same as on-line	
Respiratory Care	YES	YES	NO	YES	NO
Podiatry	YES	YES	NO	YES	NO

However, the American Psychological Association (APA) defines an online CE course as “real time” or interactive. If the course is not interactive or “real time” it is considered a home study course. The California BAR Association requires the licensee to be “signed on” or have a signed witness statement of online course participation.

### Issues for Consideration

Staff has identified the following issues for the Committee's consideration:

1. Does Board policy regarding the method of submission of the post-test undermine the meaning of the self-study limitation?
2. Is a distinction between self-study and online courses necessary?
3. No regulatory definition exists for conventional or online courses. Should language be developed to distinguish conventional, online, and self-study CE courses from each other?
4. If so, what concepts should the definition include to distinguish online courses from "self-study" courses (i.e., interactive, real-time, digitized video lectures, which include an interactive testing component)?

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**State of California  
Board of Behavioral Sciences**

**M e m o r a n d u m**

**To:** Consumer Protection Committee

**Date:** April 10, 2006

**From:** Mona C. Maggio  
Assistant Executive Officer

**Telephone:** (916) 574-7841

**Subject: Agenda Item V – Update on Supervision Survey for Marriage and Family  
Therapists (MFT) Interns and Associate Clinical Social Works (ACSW)**

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Background

In 2005, the Board addressed concerns regarding the quality and nature of candidates' supervision experience. To gain a better understanding of supervised experience and preparedness for licensure, staff developed and distributed a survey to IMF and ASW candidates to obtain this basic information.

At the January 17, 2006, the Committee reviewed a copy of the instrument sent to IMF and ASW candidates and preliminary results.

As of February 27, 2006, 687 IMF surveys were sent, 304 received with a response rate of 44%, for ASW 615 surveys were sent, 226 received with a response rate of 37%.

Overall, candidates rate their supervision experience and quality of supervision as good.

Attachments

- Response rate chart
- Survey results

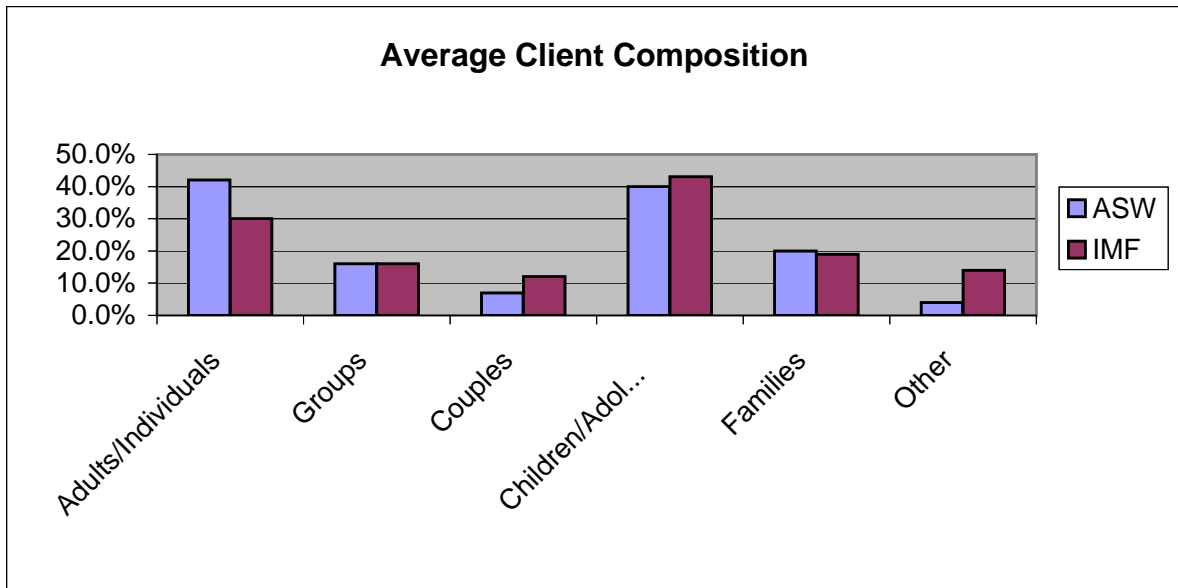
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### Question #1

*What has the client mix been for your post-master's supervised experience?*

	ASW	IMF
Adults/Individuals	42.0%	30.0%
Groups	16.0%	16.0%
Couples	7.0%	12.0%
Children/Adolescents	40.0%	43.0%
Families	20.0%	19.0%
Other	4.0%	14.0%

n= 323 274



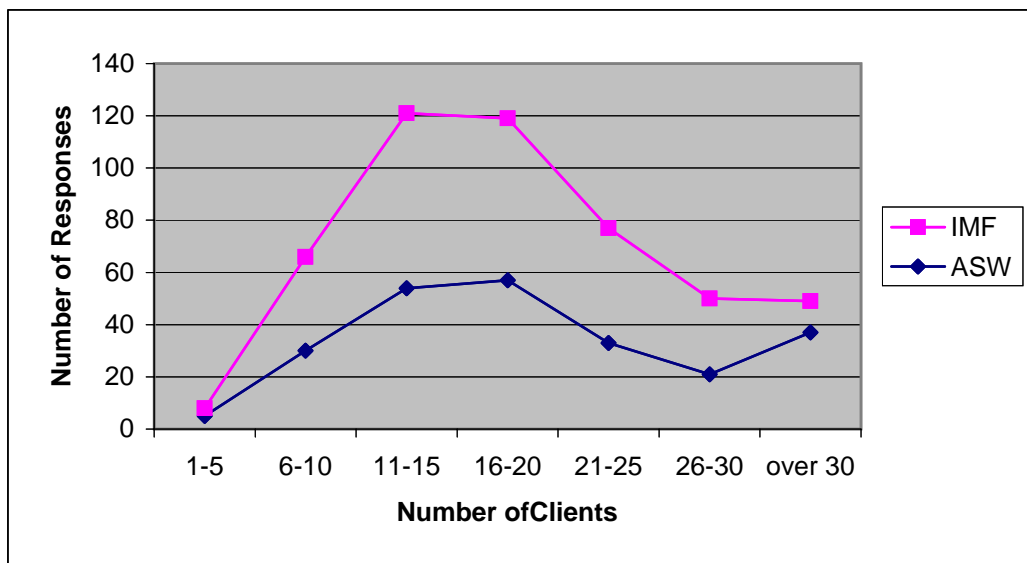
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## Question #2

*During your post-master's experience, what has been your average weekly client case load?*

Clients	ASW	IMF
1-5	5	3
6-10	30	36
11-15	54	67
16-20	57	62
21-25	33	44
26-30	21	29
over 30	37	12

n= 237 253



### Question #3

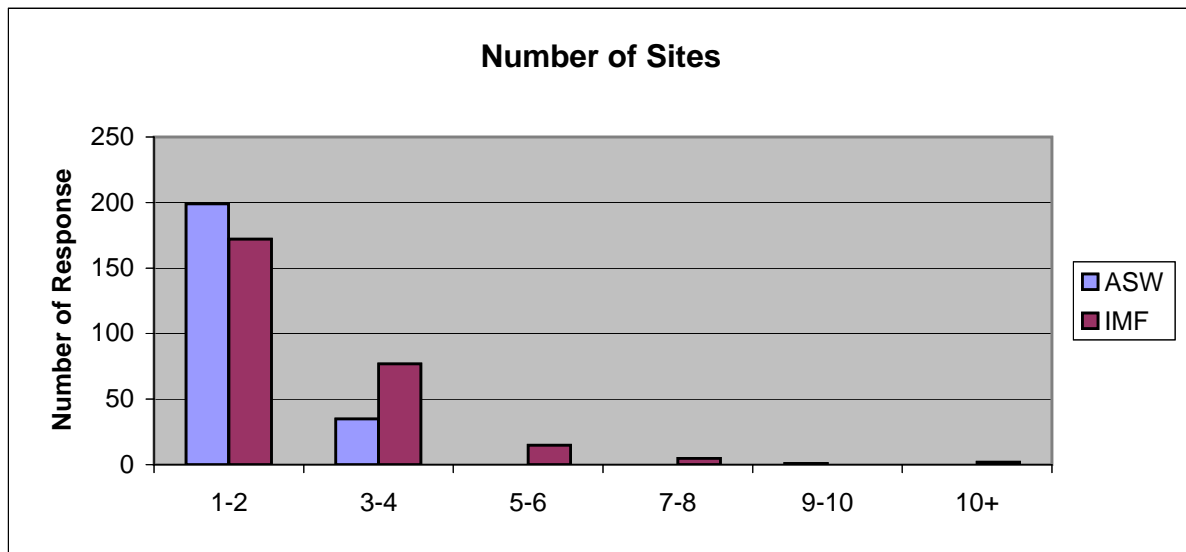
*During this period of time, in how many sites or agencies did you gain hours?*

Sites	ASW	%
1-2	199	84.3%
3-4	35	14.8%
5-6	0	0.0%
7-8	0	0.0%
9-10	1	0.4%
10+	0	0.0%

n= 236

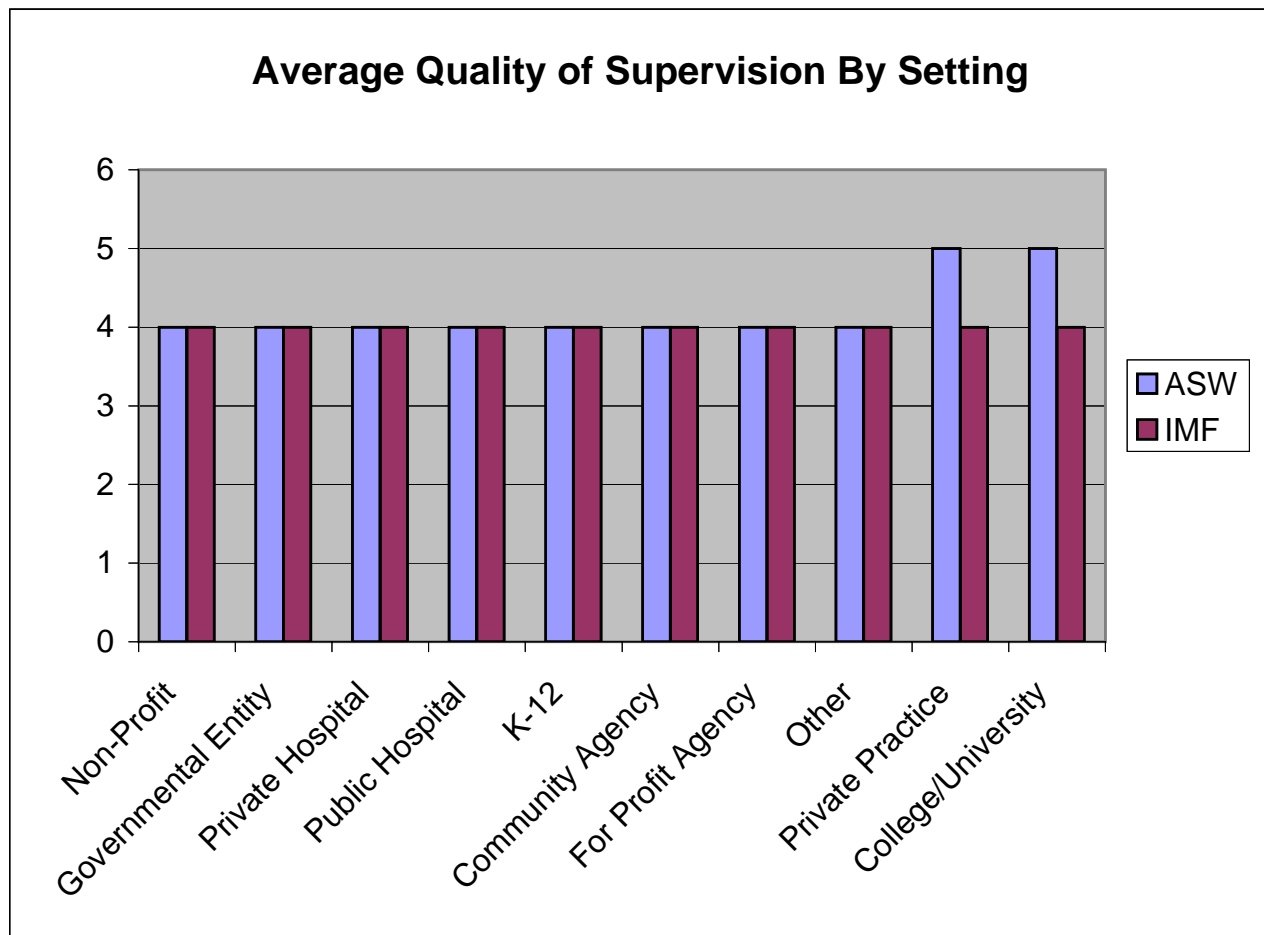
Sites	IMF	%
1-2	172	63.5%
3-4	77	28.4%
5-6	15	5.5%
7-8	5	1.8%
9-10	0	0.0%
10+	2	0.7%

n= 271



#### Question #4

<b>Response Key</b>		<b>Average Quality of Supervision</b>			
		<b>ASW</b>	<b>n</b>	<b>IMF</b>	<b>n</b>
1 - Very Poor					
2 - Poor	Non-Profit	4	108	4.0	182
3 - Adequate	Governmental Entity	4	74	4.0	37
4 - Good	Private Hospital	4	28	4.0	9
5 - Excellent	Public Hospital	4	24	4.0	10
	K-12	4	22	4.0	49
	Community Agency	4	19	4.0	33
	For Profit Agency	4	20	4.0	14
	Other	4	13	4.0	12
	Private Practice	5	16	4.0	55
	College/University	5	8	4.0	16



#### Question #4

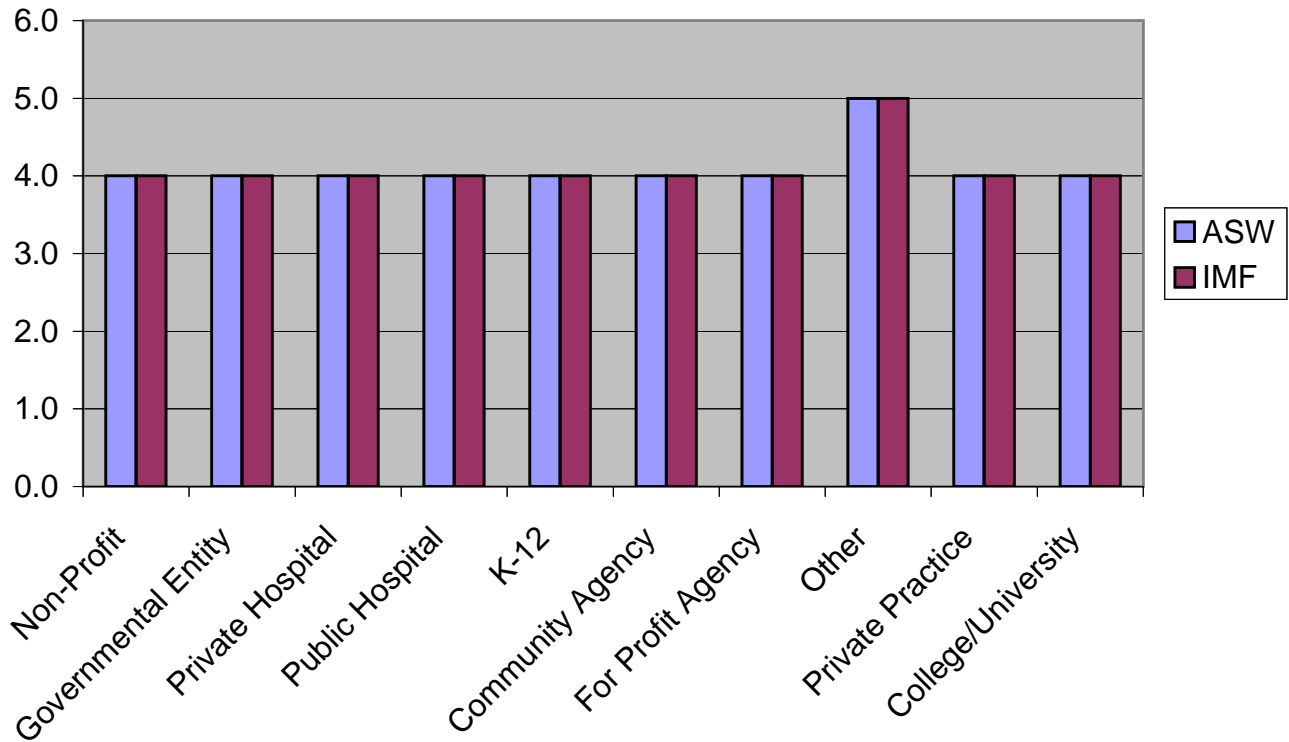
##### Response Key

- 1 - Very Poor
- 2 - Poor
- 3 - Adequate
- 4 - Good
- 5 - Excellent

##### Average Quality of Experience

		ASW	n	IMF	n
	Non-Profit	4.0	104	4.0	182
	Governmental Entity	4.0	74	4.0	37
	Private Hospital	4.0	27	4.0	9
	Public Hospital	4.0	25	4.0	10
	K-12	4.0	22	4.0	49
	Community Agency	4.0	19	4.0	33
	For Profit Agency	4.0	18	4.0	14
	Other	5.0	13	5.0	12
	Private Practice	4.0	15	4.0	55
	College/University	4.0	7	4.0	16

#### Average Quality of Experience By Setting

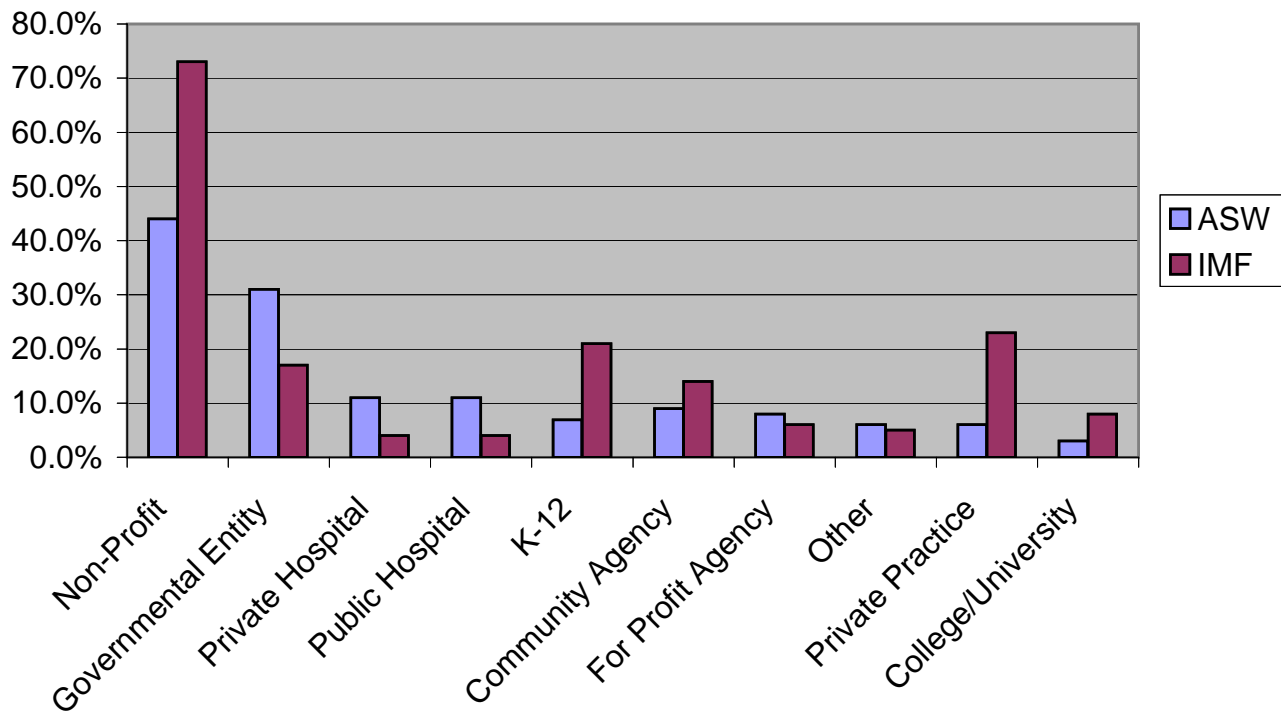


#### Question #4

#### Average % of Respondents with Experience In Each Setting

	ASW	n	IMF	n
Non-Profit	44.0%	104	73.0%	200
Governmental Entity	31.0%	74	17.0%	47
Private Hospital	11.0%	27	4.0%	12
Public Hospital	11.0%	26	4.0%	11
K-12	6.9%	22	21.0%	58
Community Agency	9.0%	22	14.0%	37
For Profit Agency	8.0%	18	6.0%	17
Other	6.0%	15	5.0%	13
Private Practice	6.0%	13	23.0%	62
College/University	3.0%	8	8.0%	23

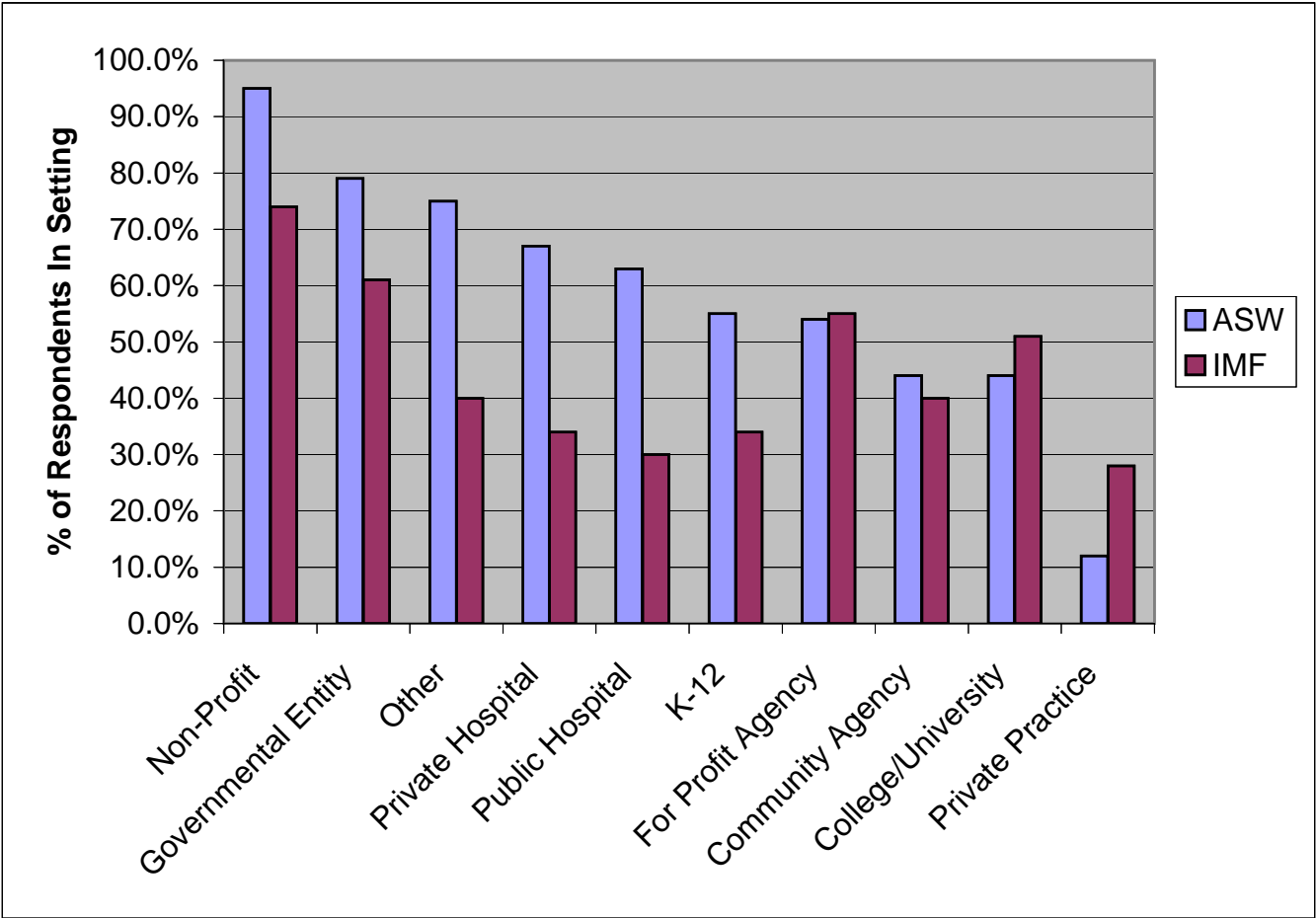
#### Average % Respondents With Experience By Setting



Question #4

Average % of Experience Gained In Each Setting

	ASW	IMF
Non-Profit	95.0%	74.0%
Governmental Entity	79.0%	61.0%
Other	75.0%	40.0%
Private Hospital	67.0%	34.0%
Public Hospital	63.0%	30.0%
K-12	55.0%	34.0%
For Profit Agency	54.0%	55.0%
Community Agency	44.0%	40.0%
College/University	44.0%	51.0%
Private Practice	12.0%	28.0%



**Question #5**

*How would you rate your graduate education in terms of preparing you for supervised post-master's experience?*

**Response Key**

		<b>ASW</b>	<b>IMF</b>
1 - Very Poor	Average	4.0	4.0
2 - Poor			
3 - Adequate	n=	238.0	267
4 - Good			
5 - Excellent			

**Question #6**

*Overall, how would you rate your experience as an intern or associate?*

**Response Key**

		<b>ASW</b>	<b>IMF</b>
1 - Very Poor	Average	4.0	4.0
2 - Poor			
3 - Adequate	n=	240.0	272
4 - Good			
5 - Excellent			

### Question #7

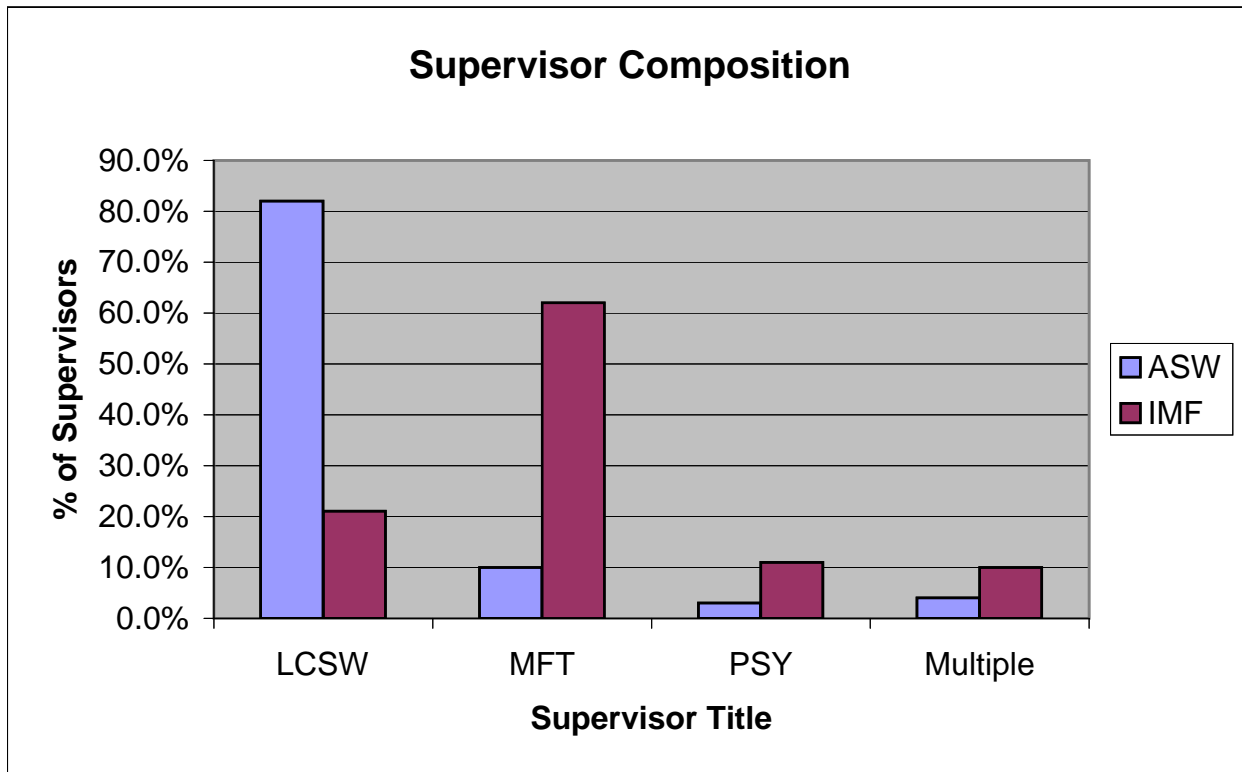
*What was this supervisor's title?*

	<b>ASW</b>	<b>%</b>
LCSW	255	82.0%
MFT	32	10.0%
PSY	9	3.0%
Multiple	11	4.0%

n= 312

	<b>IMF</b>	<b>%</b>
LCSW	121	21.1%
MFT	357	62.0%
PSY	64	11.0%
Multiple	27	10.0%

n= 574

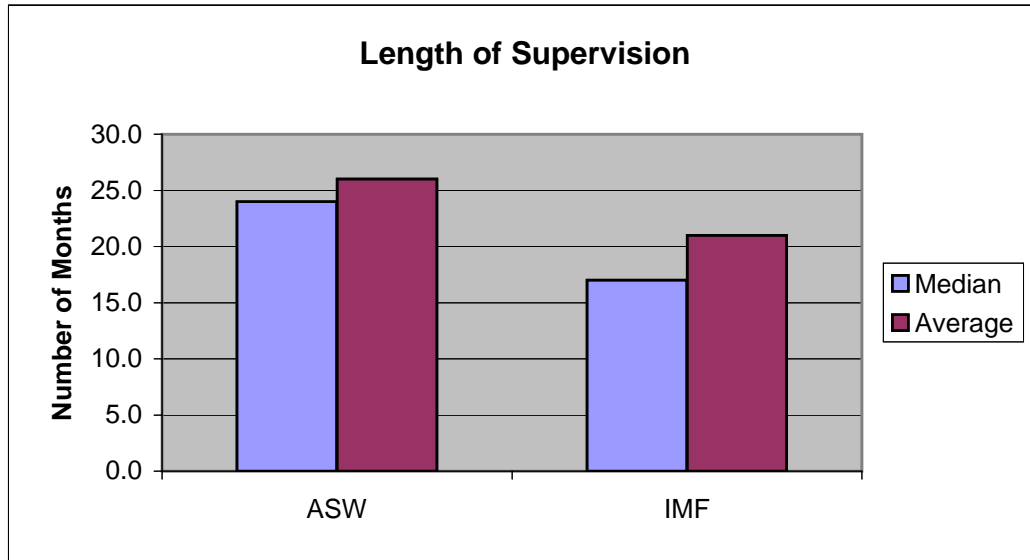


Multiple indicates combination entry e.g. mft/lcsw/psy

### Question #8

*How long were you supervised by this supervisor? (Months)*

	ASW	IMF
Median # of Months	24.0	17.0
Average # of Months	26.0	21.0
n=	305.0	580



### Question #9

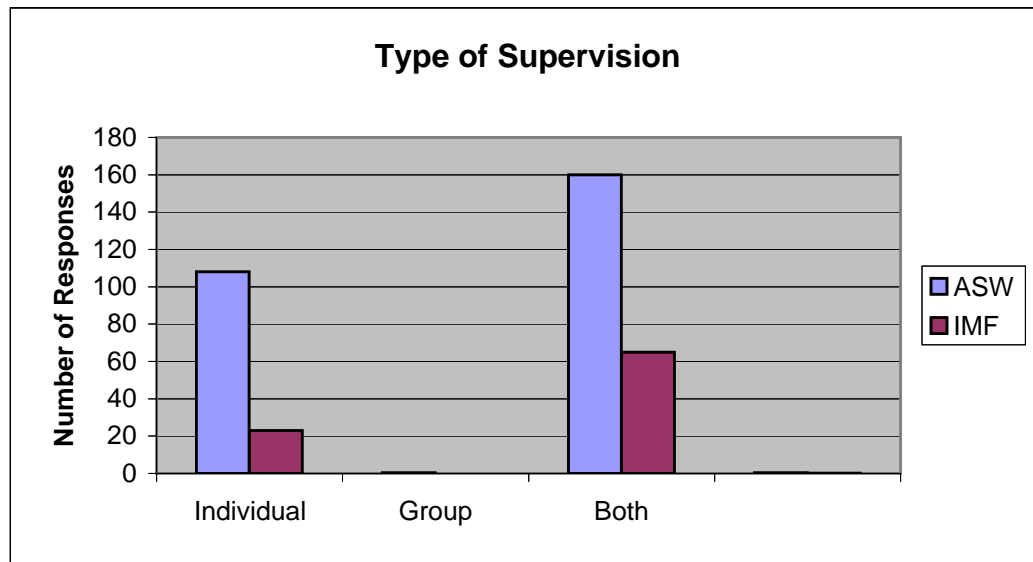
*What type of supervision was provided?*

	<b>ASW</b>	<b>%</b>
Individual	108	34.6%
Group	23	7.4%
Both	181	58.0%

n= 312

	<b>IMF</b>	<b>%</b>
Individual	160	29.3%
Group	65	11.9%
Both	321	58.8%

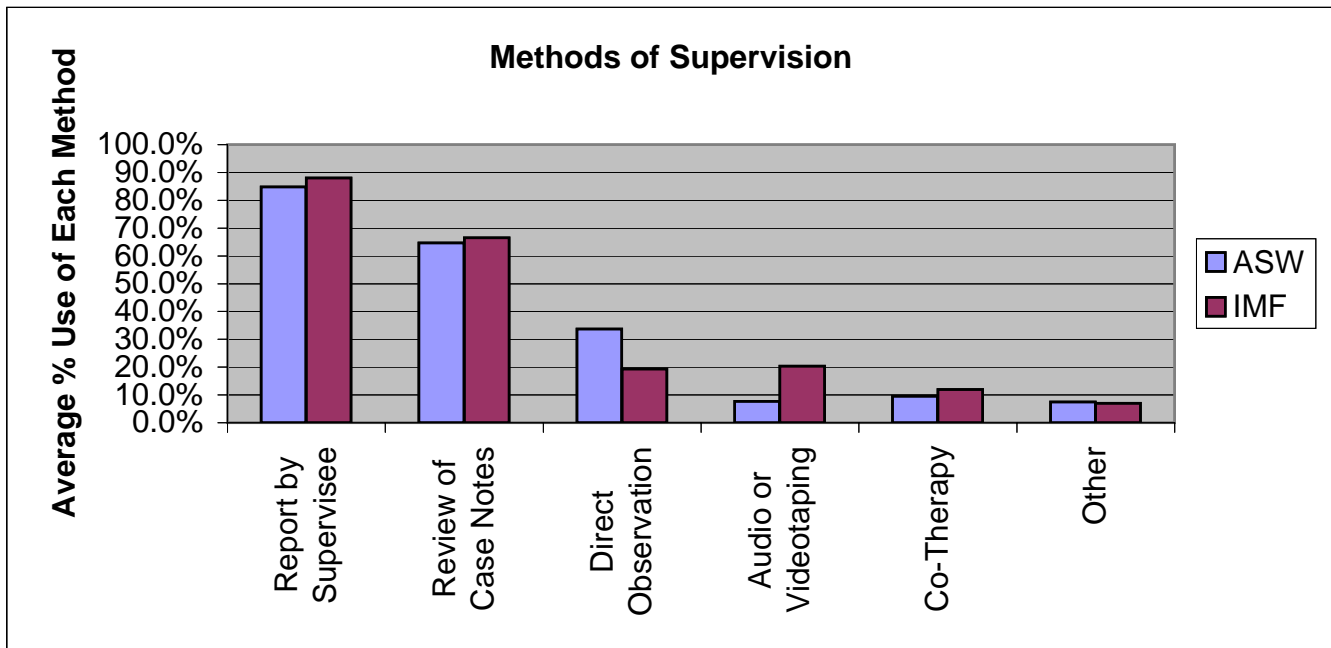
n= 546



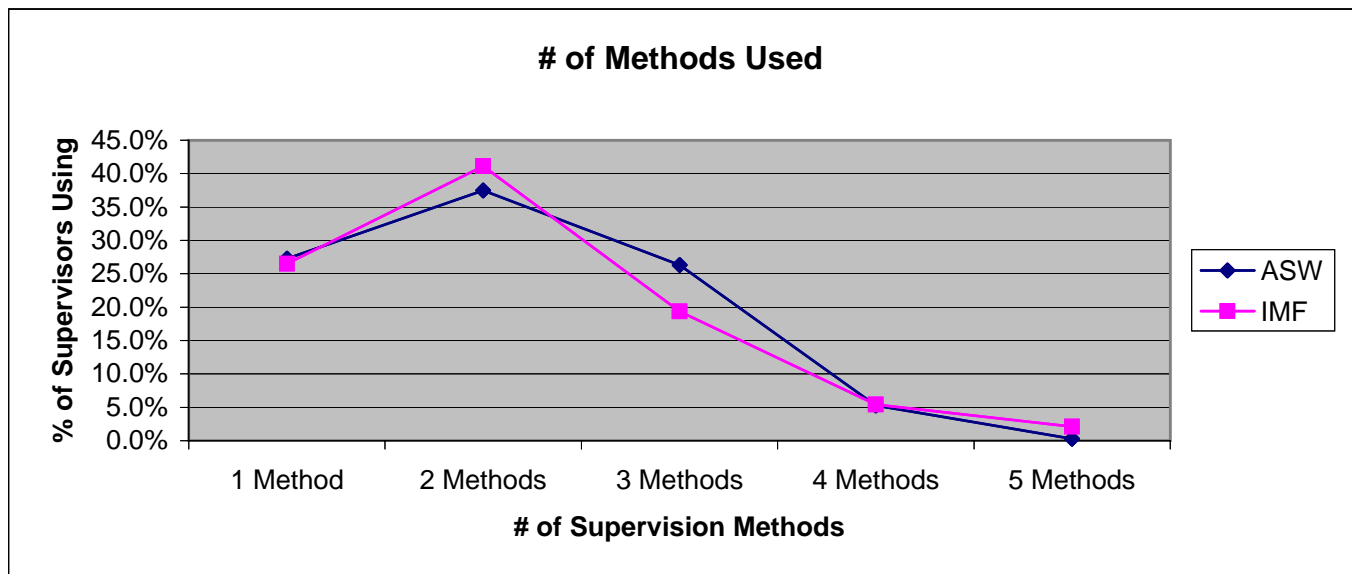
### Question # 10

What methods did the supervisor use to provide supervision?

	n=	323		574	
		<b>ASW</b>	<b>%</b>	<b>IMF</b>	<b>%</b>
Report by Supervisee		274	84.8%	505	88.0%
Review of Case Notes		209	64.7%	382	66.6%
Direct Observation		109	33.7%	111	19.3%
Audio or Videotaping		25	7.7%	117	20.4%
Co-Therapy		31	9.6%	69	12.0%
Other		24	7.4%	40	7.0%



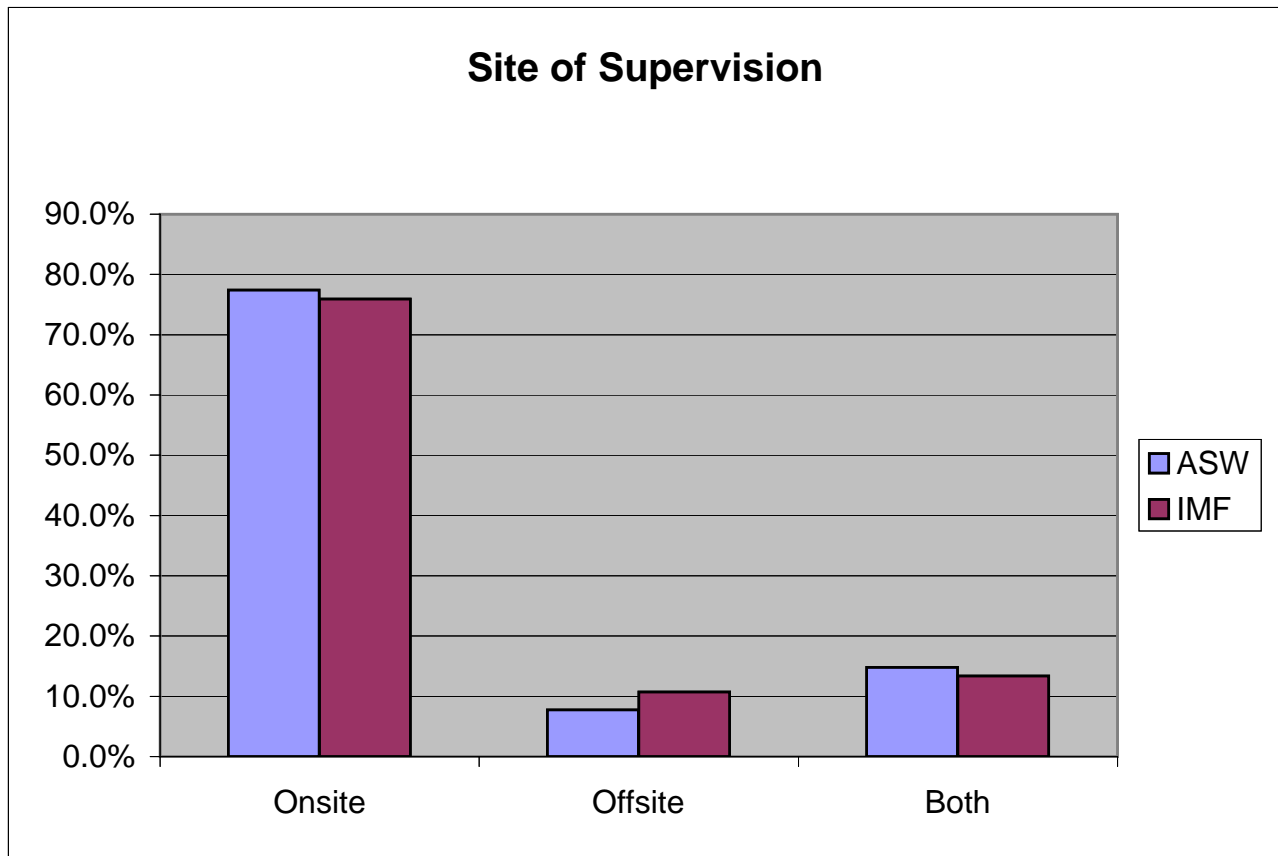
	<b>ASW</b>	<b>%</b>	<b>IMF</b>	<b>%</b>
1 Method	88	27.2%	152	26.5%
2 Methods	121	37.5%	236	41.1%
3 Methods	85	26.3%	111	19.3%
4 Methods	17	5.3%	31	5.4%
5 Methods	1	0.3%	12	2.1%



### Question #11

*Where did this supervision take place?*

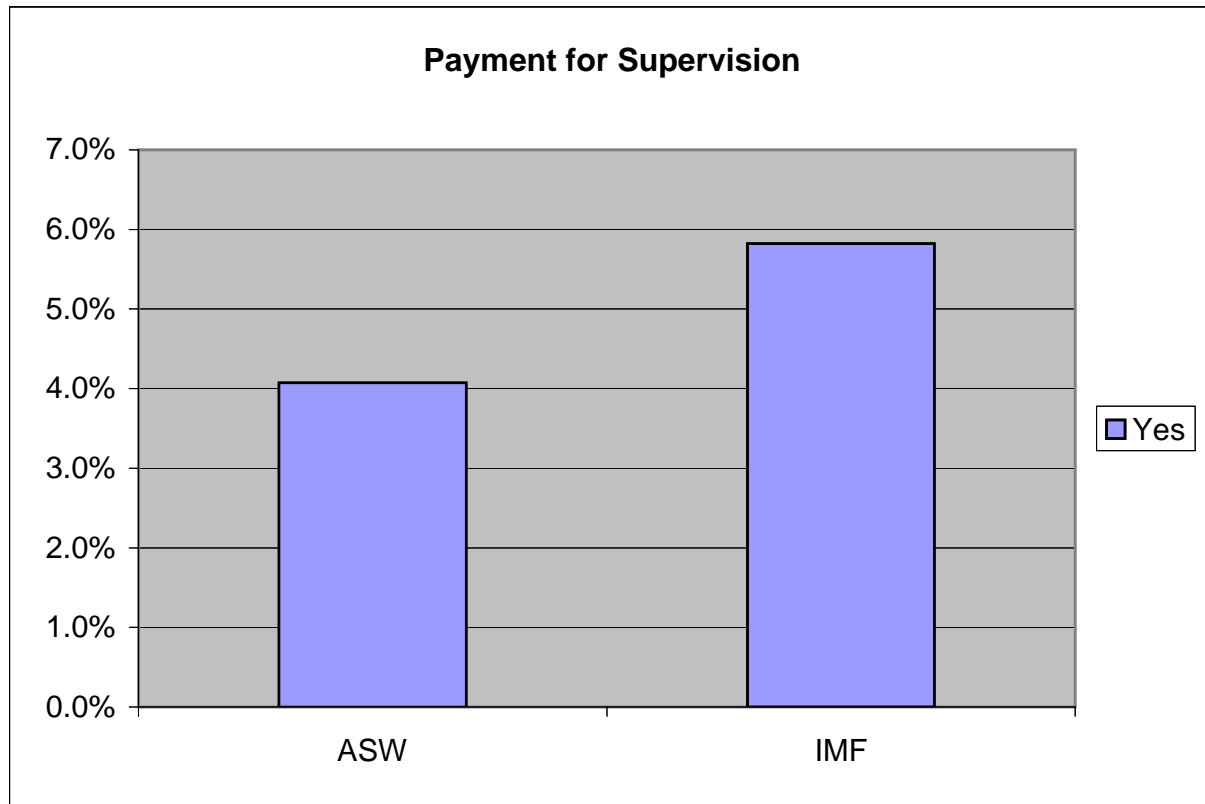
	ASW	%	IMF	%
Onsite	209	77.4%	432	75.9%
Offsite	21	7.8%	61	10.7%
Both	40	14.8%	76	13.4%
n=	270		569	



### Question #12

*Did you pay your supervisor for supervision?*

	<b>ASW</b>	<b>%</b>		<b>IMF</b>	<b>%</b>
Yes	11	4.1%		33	5.8%
	n= 270			n= 567	



**Question #14**

*How knowledgeable was this supervisor about the laws and regulations and ethics governing your profession?*

**Response Key**

		<b>ASW</b>	<b>IMF</b>
1- Not at all			
2-Somewhat	Average	4.0	4
3-Moderately			
4-Very	n=	323	568
5-Extremely			

**Question #15**

*How knowledgeable was this supervisor about the process of supervision?*

**Response Key**

		<b>ASW</b>	<b>IMF</b>
1- Not at all			
2-Somewhat	Average	4.0	4.0
3-Moderately			
4-Very	n=	323	569
5-Extremely			

**Question #16**

*How well did this supervisor provide you with the kind and quality of supervision you believed necessary for effective practice?*

**Response Key**

		<b>ASW</b>	<b>IMF</b>
1 - Very Poor			
2 - Poor	Average	4.0	4.0
3 - Adequate			
4 - Good	n=	323	569
5 - Excellent			

**Question #17**

*Overall, how satisfied were you with this supervisor?*

**Response Key**

		<b>ASW</b>	<b>IMF</b>
1 - Very Poor			
2 - Poor	Average	4	4.0
3 - Adequate			
4 - Good	n=	323	564
5 - Excellent			

**Question #18**

*In terms of responsiveness, knowledge, and timeliness, how would you rate the BBS staff you've dealt with in your application process?*

**Response Key**

		<b>ASW</b>	<b>IMF</b>
1 - Very Poor			
2 - Poor	Average	4	4
3 - Adequate			
4 - Good	n=	323	450
5 - Excellent			

## Memorandum

**To:** Consumer Protection Committee Members      **Date:** April 17, 2006  
**From:** Christy Berger  
Legislation Analyst      **Telephone:** (916) 574-7847  
**Subject:** **Agenda Item VI - Discussion and Possible Action on Proposal to Allow Supervision of MFT Interns and ACSW Registrants Via Video Conferencing**

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### Background

The California Association of Marriage and Family Therapists (CAMFT), on behalf of one of its members, had asked the Board to explore the possibility of allowing supervisors to conduct required one-on-one supervision sessions with interns via video conferencing. CAMFT's reasons for the request are (1) appropriate placements for Marriage and Family Therapist Interns (IMF) and trainees are becoming more difficult to find, largely because many agencies are reluctant to provide the necessary quantity of supervision, and (2) due to geographical limitations, most supervisees do not have access to a choice of supervision types, theoretical orientations, or experiences.

The Consumer Protection Committee considered this issue at its January meeting, and directed staff to bring back a specific proposal for limited use of video conferencing for remote locations, and specialty access for Associate Clinical Social Workers (ASW) and IMFs.

### Draft Language for Consideration

ASWs and IMFs are required to obtain a minimum of one hour of direct supervision per week for a minimum of 104 weeks. Staff has prepared some initial draft language for the Committee's review and consideration which would permit an IMF or ASW to obtain up to maximum of 12 hours of direct supervision via videoconferencing, when a hardship exists in obtaining supervision at the setting. The supervisor would be required to certify that a hardship existed, and the applicant would retain that certification for submission with his or her licensure application.

### **MFT:**

(a) An intern working in a governmental entity, a school, college or university, or an institution both nonprofit and charitable may obtain up to 12 hours of the required weekly direct supervisor contact via two-way, real time videoconferencing when a demonstrated hardship exists in obtaining supervision at the setting when required.

(b) The supervisor must provide the intern with a signed letter of self-certification which demonstrates that such circumstances existed. The intern shall provide this letter to the Board with his or her application for licensure.

### **LCSW:**

(a) An associate clinical social worker working in a governmental entity, a school, college or university, or an institution both nonprofit and charitable may obtain up to 12 hours of the required weekly direct supervisor contact via two-way, real time videoconferencing when a demonstrated hardship exists in obtaining supervision at the setting when required.

(b) The supervisor must provide the associate with a signed letter of self-certification which demonstrates that such circumstances existed. The associate shall provide this letter to the Board with his or her application for licensure.

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# Memorandum

**To:** Consumer Protection Committee  
Mona Maggio, Assistant Executive Officer

**Date:** April 17, 2006

**From:** Mary Hanifen  
Enforcement Analyst

**Telephone:** (916) 574-7867

**Subject: Agenda Item VII – Review and Discuss the Scope of Unprofessional Conduct Statutes and Regulations**

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## Background

At the January 17, 2006 Consumer Protection Committee Meeting, the Committee discussed the Board's complaint handling process and the various violations defined as unprofessional conduct in Business and Professions Code (BPC) Section 4982, (Marriage and Family Therapists [MFT]); BPC section 4998.1 (Licensed Clinical Social Worker [LCSW]); and BPC section 4986.70, (Licensed Educational Psychologist [LEP]).

Additionally, Mr. Janlee Wong representing the National Association of Social Workers (NASW) and Mary Riemersma representing the California Association of Marriage and Family Therapists (CAMFT) advised the Committee of internal processes used by the associations when a complaint is filed against one of its members. The Committee asked if the associations report to the Board when a complaint has been filed against one of its members, or if associations resolve the complaint without referring to the Board for formal action. The Committee shared its concern that the associations might be protecting a member who violates state laws. Ms. Riemersma advised the Committee of the options used by CAMFT in processing complaints, (legal action, forward complaint to Board, or Ethics Committee resolution). CAMFT does not mediate complaints but imposes ethical judgments. CAMFT does not release the names of its members who are disciplined; however, if the licensee fails to adhere to the imposed CAMFT discipline, the Board is notified for possible disciplinary action.

Mr. Wong stated NASW does use an internal mediation process with its members. Additionally, the names of members disciplined by NASW are published in its newsletter. Mr. Wong noted that when the complaint process is discussed with complainants, most choose to take action through the Board because the complainant often wants the licensee to lose his/her license.

For the purpose of further discussion and possible consideration for expanding the definition of unprofessional conduct the Committee asked staff to provide a comparison of the Board's unprofessional conduct statutes, a copy of NASW's and CAMFT's Rules of Professional Conduct and reoccurring complaints where the Board does not have jurisdiction to take action.

### Comparison of Unprofessional Conduct Codes for MFT, LCSW and LEP

*Attachment A* provides a side-by-side comparison of the unprofessional conduct codes for MFT, LCSW and LEP. The code sections were reviewed for consistency between the professions. The shaded areas reflect current inconsistencies between the three license types; however, those inconsistencies were addressed in the reorganization of the LEP statute where numerous provisions were updated to increase the parallelism between the LEP statute and the MFT and LCSW statutes. Most notably this includes refining and expanding the definition of unprofessional conduct. The comparison revealed that currently the unprofessional conduct statutes and regulations are uniform between MFT and LCSW and many of the LCSW statutes are also duplicated in the regulations.

### CAMFT Code of Ethical Standards

CAMFT's *Code of Ethical Standards* states in part that, by accepting membership in the Association, each member binds himself/herself to abide by the *CAMFT Ethical Standards for Marriage and Family Therapists*. It is the ethical responsibility of each member to safeguard the standards of ethical practice and to see that violations of the *Ethical Standards for Marriage and Family Therapists* are addressed. Members of the Association cooperate with duly constituted bodies of the California Association of Marriage and Family Therapists, and in particular, with the Ethics Committee, by responding to inquiries promptly and completely. *Attachment B* defines the ethical standards that are relevant to the professional activities of MFTs.

### NASW Code of Ethical Standards

NASW's *Code of Ethical Standards* states in part that, the *Code* provides ethical standards to which the general public can hold the social work profession accountable. *Attachment C* defines the ethical standards that are relevant to the professional activities of all social workers. These standards concern social workers' (1) ethical responsibilities to clients, (2) ethical responsibilities to colleagues, (3) ethical responsibilities in practice settings, (4) ethical responsibilities as professionals, (5) ethical responsibilities to the social work profession, and (6) ethical responsibilities to the broader society.

Some of the attached standards are enforceable guidelines for professional conduct, and some are aspirational. The extent to which each standard is enforceable is a matter of professional judgment to be exercised by those responsible for reviewing alleged violations of ethical standards.

### Additional Discussion Items

The Board receives numerous complaints regarding licensees who decline to provide client records pursuant to Health and Safety Code section 123110. Although the Enforcement Analysts contact the licensees in an attempt to assist clients in obtaining treatment records, we have no recourse for noncompliance because Board does not have a provision in law to require licensees to provide the records. If the Enforcement Analyst is unable to mediate the situation, then complainants are referred to the court or their legal counsel for possible assistance. This results in extensive costs for the clients.

The Board of Psychology addresses unprofessional conduct for the failure to provide client records pursuant to BPC section 2969 (*Attachment D*). Said section lists penalties for the failure to provide medical records and the failure to comply with a court order mandating the release of records. However, said section does not address situations in which the licensee feels it would be detrimental to release the records directly to the client or the procedure for handling records concerning minors.

### Attachments

- A. Comparison of Unprofessional Conduct Codes for MFT, LCSW and LEP
- B. CAMFT Code of Ethical Standards
- C. NASW Code of Ethical Standards
- D. BPC section 2969

**Agenda Item VII  
Attachment A  
Comparison of  
Unprofessional  
Conduct Codes for MFT,  
LCSW and LEP**

**SIDE-BY-SIDE COMPARISON CHART**

<b>VIOLATION</b>	<b>MFT SECTION B&amp;P/ CCR</b>	<b>LEP SECTION B&amp;P/ CCR</b>	<b>LCSW SECTION B&amp;P/ CCR</b>	<b>Difference</b>
Conviction of a crime	4982(a)	4986.70(a) <sup>1</sup>	4992.3(a)	More specifically defined in MFT and LCSW laws
Securing a license by fraud or deceit	4982(b)	4986.70(b) <sup>1</sup>	4992.3(b)	More specifically defined in MFT and LCSW laws
Administering or using controlled substance or alcohol-dangerous or injurious	4982(c)	4986.70(c) <sup>1</sup>	4992.3(c)	More specifically defined in MFT and LCSW laws
Gross negligence or incompetence	4982(d)	4986.70(j)	4992.3(d) 1881(m)	
Violating/attempting to violate the provisions of the chapter	4982(e)	4986.70(e)	4992.3(e)	
Misrepresents type or status of license or qualification/affiliations	4982(f)	1858(a) 1858(g)	4992.3(f) 1881(a)	
Impersonates a licensee or allows another to use license	4982(g)	1858(b)	4992.3(g) 1881(b)	
Aiding or abetting unlicensed practice	4982(h)	1858(c)	4992.3(h) 1881(c)	
Intentionally/recklessly cause physical/emotional harm	4982(i)	1858(d)	4992.3(i) 1881(d)	
Commission of dishonest/corrupt/fraudulent act	4982(j)	4986.70(f) <sup>2</sup> 1858(e) <sup>3</sup>	4992.3(j) 1881(e)	BPC 4986.70 does not include the term corrupt. CCR 1858(e) does contain the term corrupt and is consistent with the other laws.
Sexual misconduct	4982(k)	1858(h) <sup>4</sup>	4992.3(k) 1881(f) <sup>5</sup>	CCR 1858(h) does not contain the two year post termination clause
Performing or offering to perform or permitting trainee/intern to perform services beyond scope of license	4982(l)	Not addressed	4992.3(l)	
Failure to maintain confidentiality	4982(m)	1858(k)	4992.3(m) 1881(i)	
Failing to disclose fees prior to commencement of treatment	4982(n)	1858(l)	4992.3(n) 1881(j)	
Paying, accepting or soliciting any consideration for the referral of professional clients	4982(o)	Not addressed	4992.3(o)	
False/misleading/deceptive advertising	4982(p)	4986.70(d) <sup>5</sup> 1858(m) <sup>6</sup>	4992.3(p) 1881(k) <sup>4</sup>	BPC 4986.70(d) simply states improper advertising. CCR 1858(m) includes false and misleading but not deceptive
Reproduction or description in public of any test or other assessment device	4982(q)	1858(n)	4992.3(q) 1881(l)	
Any conduct in the supervision of intern/trainee by any licensee that violates chapter or any rules or regulations adopted by the Board	4982(r)	Not applicable	4992.3(r) [states registered associate clinical social worker or intern]	

<sup>1</sup> MFT and LCSW statute is more descriptive  
<sup>2</sup> Does not include “corrupt”  
<sup>3</sup> Includes “corrupt”  
<sup>4</sup> Does not have the 2-year post termination language  
<sup>5</sup> Simply states “improper advertising”  
<sup>6</sup> Includes “false” and “misleading,” but not “deceptive”

Performing or holding oneself out as being able to perform professional services beyond the scope of one's competence	4982(s) 1845(a)	1858(i)	1881(g)	
Permitting a trainee or intern under one's supervision to perform or hold themselves out as able to perform services beyond the scope of the trainee's or intern's level of education/training/experience	4982(t) 1845(b)	1858(j) [states "person" under his or her supervision]	1881(h) [states "person" under his or her supervision]	
Violation of any statute or regulation governing the gaining and supervision of experience required by the chapter	4982(u)	Not applicable	Not stated	Not included in LCSW law
Failure to keep records consistent with sound clinical judgment, the standards of the profession and the nature of the services being rendered	4982(v)	4986.70(i)	4992.3(s)	
Failure to comply with child abuse reporting requirements of Penal Code Section 11166	1845(c)	1858(o)	1881(o)	
Failure to comply with elder and dependent adult abuse reporting requirements of Welfare and Institution Code Section 15630	1845(d)	1858(p)	1881(p)	
Denial of licensure, revocation, suspension, restriction, or any other disciplinary action imposed by another state or territory or possession of the United States, or by any other governmental agency on a license/certificate/registration	4982.25(a) [4982.25(b) for discipline against LEP or LCSW license]	4986.70(g) <sup>7</sup>	4992.36(a) [4992.36(b) for discipline against MFT or LEP license]	LEP law does not include revocation/suspension/denial by the board as a MFT or LCSW shall also constitute grounds for disciplinary action for unprofessional conduct
When employed by another person or agency, encourages either orally or in writing, the employer's or agency's clientele to utilize his or her private practice without approval from employing agency or administration	Not addressed	1858(f)	Not addressed	

<sup>7</sup> Does not include revocation/suspension/restriction by the Board to practice MFT or LCSW

**Agenda Item VII**  
**Attachment B**  
**CAMFT Code of Ethical**  
**Standards**

**Agenda Item VII**  
**Attachment C**  
**NASW Code of Ethical**  
**Standards**

**Agenda Item VII**  
**Attachment D**  
**BPC Section 2969**

## Memorandum

**To:** Consumer Protection Committee  
Mona Maggio, Assistant Executive Officer

**Date:** April 17, 2006

**From:** Rosanna Webb-Flores  
Lead Enforcement Analyst

**Telephone:** (916) 574-7864  
**Extension:**

**Subject:** **Agenda Item VIII – Review Enforcement Program**

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At the January 2006 meeting, the Committee asked staff to provide for its review a summary of pending enforcement cases and a statistical report to include: 1) categorize the nature of the violations; 2) number of violations in each category; 3) number of cases at DOI; 4) number of cases pending at AG, and 5) status of cases after proposed decision, i.e., probation, revocation, writ of mandate.

Additionally, the Committee requested an overview of how cost recovery is ordered and reimbursed to the Board and the notification and process of subsequent arrest information.

The following materials are attached for the Committee's review and discussion:

Attachments

- A. Enforcement Statistical Report
- B. Cost Recovery Memorandum
- C. Notification of Subsequent Arrests Memorandum

**BOARD OF BEHAVIORAL SCIENCES**  
**Overview of Enforcement Activity**

<b>Fiscal Years</b>	<b>01/02</b>	<b>02/03</b>	<b>03/04</b>	<b>04/05</b>	<b>05/06 *</b>
<b>Complaints / Cases Opened</b>					
Complaints Received	493	514	560	626	597
Criminal Convictions Received	397	384	383	384	337
<b>Total Complaints Received</b>	<b>890</b>	<b>898</b>	<b>943</b>	<b>1010</b>	<b>934</b>
Investigations Opened	42	25	11	25	38
Cases Sent to AG	31	41	17	25	39
<b>Filings</b>					
Citations Issued	30	24	19	63	137
Accusations Filed	27	17	22	17	21
Statement of Issues (SOI's) filed	7	4	4	2	0
Temporary Restraining Order	0	0	0	0	0
Interim Suspension Orders	0	0	1	0	1
<b>Withdrawals/Dismissals</b>					
Accusations Withdrawn or Dismissed	3	1	0	1	0
SOI's Withdrawn or Dismissed	1	1	0	0	0
Declined by the AG	0	7	3	1	1
<b>Disciplinary Decision Outcomes</b>					
Revoked	14	4	10	4	5
Revoked, Stayed, Susp & Probation	2	2	1	2	0
Revoked, Stayed, Probation	12	6	5	2	3
Surrender of License	6	7	7	7	5
Suspension	0	0	0	0	0
Susp., Stayed, Susp & Prob	0	0	0	0	0
Susp., Stayed Probation	0	1	0	0	0
Susp & Prob Only	0	0	0	0	0
License Probation Only	1	0	0	0	0
Reprimand / Reproval	0	1	0	0	0
Other Decisions	0	0	0	0	0
<b>Total Decisions</b>	<b>35</b>	<b>21</b>	<b>23</b>	<b>15</b>	<b>13</b>
<b>Decisions (By Violation Type)</b>					
Fraud	1	1	0	1	0
Health & Safety	0	0	0	1	1
Sexual Misconduct	13	5	5	5	5
Competence / Negligence	1	2	9	2	1
Personal Conduct	7	7	3	4	4
Unprofessional Conduct	8	4	4	2	2
Unlicensed Activity	0	0	0	0	0
Other	0	0	0	0	0
Violation of Probation	5	2	2	0	0

\* Fiscal Year Period: 7/1/05 through 03/31/06.

**Note: These statistics are for informational purposes only and should not be used as the sole source to analyze the Board's enforcement program.**

**BOARD OF BEHAVIORAL SCIENCES  
ENFORCEMENT AGING DATA  
2005 - 2006 FISCAL YEAR <sup>(1)</sup>**

	<b>0-3 mo</b>	<b>4-6 mo</b>	<b>7-9 mo</b>	<b>10-12 mo</b>	<b>1-2 years</b>	<b>2-3 years</b>	<b>Over 3 Years</b>	<b>Total</b>
Pending Complaints <sup>(2)</sup>	168	48	21	6	3	0	0	246
Pending Investigations <sup>(3)</sup>	13	12	6	6	1	0	0	38
<b>Total Pending Complaints (Includes Inv) <sup>(4)</sup></b>	<b>181</b>	<b>60</b>	<b>27</b>	<b>12</b>	<b>4</b>	<b>0</b>	<b>0</b>	<b>284</b>
Pending Cases at the AG - Pre Accusation <sup>(5)</sup>	18	5	2	1	1	1	0	28
Pending Cases at the AG - Post Accusation <sup>(6)</sup>	11	6	3	2	3	1	1	27
<b>Total Pending Cases at the AG's Office</b>	<b>29</b>	<b>11</b>	<b>5</b>	<b>3</b>	<b>4</b>	<b>2</b>	<b>1</b>	<b>55</b>

(1) Pending as of March 31, 2006.

(2) Pending Complaints are those complaints which are not currently being investigated by the Division of Investigation.

(3) Pending Investigations are those complaints which are being investigated by the Division of Investigation.

(4) Total Pending Complaints includes pending complaints and pending investigations.

(5) Pre Accusation are those pending cases at the AG's office where an accusation or statement of issues has not been filed yet.

(6) Post Accusation are those pending cases at the AG's office where a accusation or statement of issues has been filed.

**Note: These statistics are for informational purposes only and should not be used as the the sole source to analyze the Board's enforcement program.**

**BOARD OF BEHAVIORAL SCIENCES**  
**BREAKDOWN OF ENFORCEMENT COMPLAINT ACTIVITY BY LICENSEE POPULATION**  
**2005 - 2006**  
**FISCAL YEAR <sup>(1)</sup>**

	OPENED	COMPLAINTS CLOSED	PENDING	Licenses In Effect (2)	% of Licenses to Pending Complaints
UNLICENSED	88	82	22	n/a	n/a
APPLICANTS	232	240	28	n/a	n/a
CE PROVIDERS	6	6	1	2216	0.05
DUAL LICENSEES (3)	11	10	1	n/a	n/a
DUAL W/BOP (3)	14	12	4	n/a	n/a
ASW	48	41	21	6463	0.32
LCSW	133	114	47	16297	0.29
IMF	89	79	47	9628	0.49
MFT	304	269	111	27624	0.40
LEP	9	7	2	1713	0.12
<b>TOTAL</b>	<b>934</b>	<b>860</b>	<b>284</b>	<b>63941</b>	<b>0.44</b>

Note: (1) Activity is from July 1, 2005 through March 31, 2006. Pending as of March 31, 2006.  
(2) Licenses in effect as of March 1, 2006. Does not include cancelled, revoked, or voluntary surrender of licenses.  
(3) Dual licensees are those that hold dual licenses with BBSE. Dual w/BOP are licensed with BBSE and the Board of Psychology.

**Note: These statistics are for informational purposes only and should not be used as the the sole source to analyze the Board's enforcement program.**

4/13/2006

## BOARD OF BEHAVIORAL SCIENCES RECOVERY COSTS

	01/02	02/03	03/04	04/05	05/06*
# Cases Ordered	21	12	9	12	11
Total Amount Ordered	\$130,772.00	\$36,258.50	\$25,497.50	\$73,791.25	\$61,862.50
Amount Collected (1)	\$45,544.76	\$57,867.25	\$20,600.08	\$23,791.89	\$12,197.45

(1) In Stipulated Settlements resulting in revocation or voluntary surrender, payment of cost recovery may only be required if the respondent pursues reinstatement or reapplys for licensure.

\* 05/06 Fiscal Year through: March 31, 2006

**Note: These statistics are for informational purposes only and should not be used as the the sole source to analyze the Board's enforcement program.**

4/13/2006

## BOARD OF BEHAVIORAL SCIENCES CITATIONS ISSUED BY CATEGORY

	01/02	02/03	03/04	04/05	05/06*
<b>Agency Category Types</b>					
Improper Supervision		1	1	2	
Aiding & Abetting					1
Failure/Report Abuse		1	1		
Breach of Confidence	1	2	6	5	5
Advertising/Misrepresentation	1	1	1	1	
Unlicensed Practice	3	4	3	7	2
Failure Report Conviction on Renewal		2			
Non Compliance with CE Audit	24	12	6	44	125
Failure Report Conviction on Application		1		1	1
Subvert Licensing Exam			1		
Practicing Beyond Scope				1	
Client Abandonment					1
Unprofessional Conduct				2	2
<b>TOTAL</b>	<b>29</b>	<b>24</b>	<b>19</b>	<b>63</b>	<b>137</b>

\* 05/06 Fiscal Year through: March 31, 2006

**Note: These statistics are for informational purposes only and should not be used as the the sole source to analyze the Board's enforcement program.**

**BOARD OF BEHAVIORAL SCIENCES**  
**CATEGORY TYPES OF DISCIPLINARY ACTION TAKEN**  
**2005 - 2006**  
**FISCAL YEAR \***

**REVOC. STAYED: PROB ONLY**

Aiding and Abetting

Sexual Misconduct

Conviction of a Crime

		MFT IMF	LCSW AWS	LEP	APPLICANT
	1	1			
	1	1			
	1				1
<b>Subtotal</b>	<b>3</b>	<b>2</b>	<b>0</b>	<b>0</b>	<b>1</b>
<b>REVOKED</b>					
Conviction of a Crime	2	2			
Sexual Misconduct	2	2	1		
<b>Subtotal</b>	<b>5</b>	<b>4</b>	<b>1</b>	<b>0</b>	<b>0</b>
<b>SURRENDER OF LICENSE</b>					
Mental Illness	1	1			
Emotional / Physical Harm	2	1	1		
Sexual Misconduct	1	0	1		
Conviction of a Crime	1	1			
<b>Subtotal</b>	<b>5</b>	<b>3</b>	<b>2</b>	<b>0</b>	<b>0</b>
<b>TOTAL</b>	<b>13</b>	<b>9</b>	<b>3</b>	<b>0</b>	<b>1</b>

\* Time frame: July 1, 2005 through March 31, 2006

**Note: These statistics are for informational purposes only and should not be used as the the sole source to analyze the Board's enforcement program.**

**BOARD OF BEHAVIORAL SCIENCES**  
**BREAKDOWN OF ENFORCEMENT ACTIVITY - CASES AT THE AG'S OFFICE**  
**BY LICENSEE POPULATION**  
**2005 - 2006 FISCAL YEAR <sup>(1)</sup>**

	<b>PENDING</b>	<b>Licenses In Effect (2)</b>	<b>% of Licenses to Pending Cases</b>
UNLICENSED	0	n/a	n/a
APPLICANTS	2	n/a	n/a
SUSEQUENT DISP. (3)	3	n/a	n/a
DUAL LICENSEES (4)	1	n/a	n/a
DUAL W/BOP (4)	4	n/a	n/a
CE PROVIDERS	0	2216	0.00
ASW	5	6463	0.08
LCSW	10	16297	0.06
IMF	8	9628	0.08
MFT	22	27624	0.08
LEP	0	1713	0.00
<b>TOTAL</b>	<b>55</b>	<b>63941</b>	<b>0.09</b>

Note: (1) Pending as of March 31, 2006.

(2) Licenses in effect as of March 1, 2006. Does not include cancelled, revoked, or voluntary surrender of licenses.

(3) Subsequent Discipline for violation of probation.

(4) Dual licensees are those that hold dual licenses with BBSE. Dual w/BOP are licensed with BBSE and the Board of Psychology.

**Note: These statistics are for informational purposes only and should not be used as the the sole source to analyze the Board's enforcement program.**

**BOARD OF BEHAVIORAL SCIENCES**  
**CATEGORY OF PENDING COMPLAINTS**  
**As of March 31, 2006**

AGENCY CATEGORY	CE	UL	AP	DL	DP	AS	LC	IM	MF	LEP	TOTAL
Fraud	0	0	0	0	0	0	0	0	1	0	1
Fraudulent License	0	0	0	0	0	0	0	0	0	0	0
Insurance, Medi-Cal	0	0	0	0	0	0	1	0	0	0	1
Non-Jurisdictional	0	1	0	0	0	0	2	1	2	0	6
Custody	0	0	0	0	0	0	2	0	13	0	15
Fee Disputes	0	0	0	0	0	0	0	0	1	0	1
Exempt from licensure	0	2	0	0	1	1	0	0	0	0	4
Negligence	0	0	0	0	0	0	0	0	1	0	1
Beyond Scope	0	0	0	0	0	0	0	0	0	0	0
Dual Relationship	0	0	0	0	0	0	0	0	0	0	0
Abandonment	0	0	0	0	0	0	0	0	0	0	0
Improper Supervision	0	0	0	0	0	0	3	0	8	0	11
Misdiagnosis	0	0	0	0	0	0	0	0	0	0	0
Failure/Report Abuse	0	0	0	0	0	0	0	0	1	0	1
Aiding & Abetting	0	0	0	0	0	0	0	0	1	0	1
Other	0	0	1	0	0	0	0	0	0	0	1
Mental Illness	0	0	0	0	0	0	0	0	0	0	0
Self Use Drugs/Alcohol	0	0	0	0	0	0	0	0	0	0	0
Conviction of Crime	0	0	1	0	0	16	6	27	8	1	59
Unprofessional Conduct	0	0	0	1	1	2	23	7	53	1	88
Sexual Misconduct	0	0	0	0	0	0	0	3	8	0	11
Breach of Confidentiality	0	0	0	0	0	0	3	0	4	0	7
Emotional/Phys. Harm	0	0	0	0	0	0	0	1	0	0	1
Advertising / Misrepresentation	0	5	2	0	0	1	1	3	1	0	13
Unlicensed Practice	1	13	0	0	0	1	0	2	0	0	17
Repressed Memory	0	0	0	0	0	0	0	0	0	0	0
Third Party Complaint	0	1	0	0	0	0	3	2	3	0	9
Unsafe/Sanitary Conditions	0	0	0	0	0	0	0	0	0	0	0
Discipline by Another State	0	0	0	0	0	0	0	0	0	0	0
Criminal Convictions - Renewal Reported	0	0	0	0	0	0	0	0	0	0	0
Non Compliance with CE Audit	0	0	0	0	2	0	3	0	6	0	11
Applicant Referral for Criminal Conviction	0	0	24	0	0	0	0	1	0	0	25
Subvert Licensing Exam	0	0	0	0	0	0	0	0	0	0	0
<b>TOTAL</b>	<b>1</b>	<b>22</b>	<b>28</b>	<b>1</b>	<b>4</b>	<b>21</b>	<b>47</b>	<b>47</b>	<b>111</b>	<b>2</b>	<b>284</b>

**Note: These statistics are for informational purposes only and should not be used as the the sole source to analyze the Board's enforcement program.**

**BOARD OF BEHAVIORAL SCIENCES**  
**BREAKDOWN OF ENFORCEMENT COMPLAINT CLOSURES BY TYPE**  
**2005 - 2006**  
**FISCAL YEAR <sup>(1)</sup>**

	Unactionable (2)	Mediated (3)	Citation (4)	Violation (5)	Inv. (6)	District Attorney (7)	Rfrd Disp. (8)	Other (9)	TOTAL
UNLICENSED	73	0	1	6	0	0	0	2	82
APPLICANTS	2	0	0	225	0	0	1	12	240
CE PROVIDER	5	0	0	0	0	0	0	1	6
DUAL LICENSEES (10)	4	0	6	0	0	0	0	0	10
DUAL W/BOP (10)	5	0	7	0	0	0	0	0	12
ASW	16	0	1	17	1	0	2	4	41
LCSW	58	0	36	4	4	0	8	4	114
IMF	33	0	1	26	6	0	3	10	79
MFT	144	4	82	9	9	0	11	10	269
LEP	4	0	0	1	0	0	0	2	7
<b>TOTAL</b>	<b>344</b>	<b>4</b>	<b>134</b>	<b>288</b>	<b>20</b>	<b>0</b>	<b>25</b>	<b>45</b>	<b>860</b>

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**40% Unactionable****60% Actionable**

Note:

- (1) Closure activity is from July 1, 2005 through March 31, 2006.
- (2) Unactionable: Complaints which after review are closed no violation, insufficient evidence, no jurisdiction etc.
- (3) Mediated: Complaints which have no violation, but where a resolution was reached between parties.
- (4) Citation: Complaints in which after review, violations have been found and the complaint was closed upon the issuance of a citation.
- (5) Violation: Complaints which after review, violations have been found and were closed upon the issuance of a cease and desist or warning letter.
- (6) Inv.: Complaints which were closed after an investigation was conducted.
- (7) District Attorney: Complaints which, after review, a determination is made that the matter should be referred to the DA's office.
- (8) Rfrd Disp: Complaints which are referred directly to the Attorney General's office for disciplinary action (no investigation was required).
- (9) Other: Complaints closed in any manner which does not fit within one of the other categories.
- (10) Dual licensees are those that hold dual licenses with BBSE. Dual w/BOP are licensed with BBSE and the Board of Psychology.

**Note: These statistics are for informational purposes only and should not be used as the the sole source to analyze the Board's enforcement program.**

4/13/2006

**BOARD OF BEHAVIORAL SCIENCES  
REIMBURSEMENT OF PROBATION PROGRAM**

	01/02	02/03	03/04	04/05	05/06 *
# Cases Ordered			1	3	3
Amount Ordered Per Year (\$1,200)			\$6,000.00	\$16,800.00	\$14,400.00
Amount Collected			0	\$1,900.00	\$1,900.00

\* 05/06 Fiscal Year through: March 31, 2006

**Note: These statistics are for informational purposes only and should not be used as the the sole source to analyze the Board's enforcement program.**

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## Memorandum

**To:** Consumer Protection Committee

**Date:** April 17, 2006

**From:** Rosanna Webb-Flores  
Lead Enforcement Analyst

**Telephone:** (916) 574-7864

**Extension:**

**Subject: Agenda Item VIII - Recovery Costs**

---

The Board of Behavioral Sciences has the authority to recoup the costs of investigation and prosecution pursuant to Business and Professions Code section 125.3. Section 125.3 of the Code states, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

The Board seeks recovery costs in most cases. However, cost recovery is always negotiated in stipulated settlements. In cases resulting in voluntary surrender or revocation, payment of cost recovery may only be required if the respondent pursues reinstatement or applies for a new license. In cases in which the respondent is placed on probation, payment of cost recovery is usually a condition of probation. Failure to pay cost recovery may result in further disciplinary action or extension of the probation term. In decisions calling for the revocation of a license or registration, costs are usually difficult to collect.

In September 1999, the Board began to use the Franchise Tax Board (FTB) Intercept Program to attempt collection of unpaid recovery costs. The FTB program intercepts the respondent's state tax return. To date, thirteen cases have been referred to the FTB, resulting in interception of \$10,976.33.

Recovery Costs Data					
	FY 2001/02	FY 2002/03	FY 2003/04	FY 2004/05	FY 2005/06*
<b># Cases Ordered</b>	21	12	9	12	11
<b>Total Amount Ordered (1)</b>	\$130,772.00	\$36,258.50	\$24,497.50	\$73,791.25	\$61,862.50
<b>Amount Collected</b>	\$45,544.76	\$57,867.25	\$20,600.08	\$23,791.89	\$12,197.45

\*05/06 Fiscal Year through: March 31, 2006

(1) Total Amount Ordered includes recovery cost ordered in settlement cases resulting in voluntary surrender or revocation. Those costs may never be recovered because the order calls for repayment only if the respondent reapplies or reinstates the license.

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## Memorandum

**To:** Consumer Protection Committee  
Mona Maggio, Assistant Executive Officer

**Date:** April 17, 2006

**From:** Rosanna Webb-Flores  
Enforcement Analyst

**Telephone:** (916) 574-7864  
**Extension:**

**Subject:** Agenda Item VIII – Notification of Subsequent Arrests

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### Background

The Board of Behavioral Sciences requires a Department of Justice and the Federal Bureau of Investigation criminal history background check on all applicants for licensure or registration. There are currently two methods available for submitting fingerprints, applicant live scan, or the ten-print (hard card) applicant fingerprint card. Applicant Live Scan is a system for the electronic submission of fingerprints. DOJ is able to process up to 95% of live scan applicant fingerprint submissions in 72 hours or less. The Applicant Live Scan process is currently only available within the State of California. If the applicant resides outside of the State of California, they must use the "hard card" fingerprint method.

The Board has a contract for subsequent arrest notification service with the Department of Justice. Subsequent arrest notifications are furnished pursuant to the prior applicant fingerprint submission. The Board does not receive subsequent arrest notifications for those individuals who were licensed prior to the fingerprint requirement. In most cases, subsequent arrest notifications are usually electronically transmitted (emailed) to the Board within 72 hours of the arrest. For example, if a Board licensee is arrested on Saturday night for driving under the influence, the Board receives notification during the following week.

### Penal Code Section 11105.2. Authority

(a) The Department of Justice may provide subsequent arrest notification to any agency authorized by Penal Code Section 11105 to receive state summary criminal history information to assist in fulfilling employment, licensing, certification duties, or the duties of approving relative caregivers and non-relative extended family members, upon the arrest of any person whose fingerprints are maintained on file at the Department of Justice as the result of an application for licensing, employment, certification, or approval. The notification shall consist of a current copy of the person's state summary criminal history transcript.

(b) For purposes of this section, "approval" means those duties described in subdivision (d) of Section 309 of the Welfare and Institutions Code for approving the home of a relative caregiver or of a non-relative extended family member for placement of a child supervised by the juvenile court.

(c) Any agency, other than a law enforcement agency employing peace officers as defined in Section 830.1, subdivisions (a) and (e) of Section 830.2, subdivision (a) of Section 830.3, subdivisions (a) and (b) of Section 830.5, and subdivision (a) of Section 830.31, shall enter into a contract with the Department of Justice in order to receive notification of subsequent arrests for licensing, employment, or certification purposes.

(d) Any agency which submits the fingerprints of applicants for licensing, employment, certification, or approval to the Department of Justice for the purpose of establishing a record of the applicant to receive notification of subsequent arrests shall immediately notify the department when the employment of the applicant is terminated, when the applicant's license or certificate is revoked, when the applicant may no longer renew or reinstate the license or certificate, or when a relative caregiver's or non-relative extended family member's approval is terminated. The Department of Justice shall terminate subsequent

arrest notification on any applicant upon the request of the licensing, employment, certifying, or approving authority.

(e) Any agency receiving a notification of subsequent arrest for a person unknown to the agency, or for a person no longer employed by the agency, or no longer eligible to renew the certificate or license for which subsequent arrest notification service was established shall immediately return the subsequent arrest notification to the Department of Justice, informing the department that the agency is no longer interested in the applicant. The agency shall not record or otherwise retain any information received as a result of the subsequent arrest notice.

(f) Any agency which submits the fingerprints of an applicant for employment, licensing, certification, or approval to the Department of Justice for the purpose of establishing a record at the department to receive notification of subsequent arrest shall immediately notify the department if the applicant is not subsequently employed, or if the applicant is denied licensing certification, or approval.

(g) An agency which fails to provide the Department of Justice with notification as set forth in subdivisions (c), (d), and (e) may be denied further subsequent arrest notification service.

(h) Notwithstanding subdivisions (c), (d), and (f), subsequent arrest notification by the Department of Justice and retention by the employing agency shall continue as to retired peace officers listed in subdivision (c) of Section 830.5.

### Discussion

<b>Subsequent Arrest Notifications</b>				
	<b>FY 2001/02</b>	<b>FY 2002/03</b>	<b>FY 2003/04</b>	<b>FY 2004/05</b>
<b>Subsequent Arrest Notifications Received</b>	23	101	102	105
<b>Referred to AG's for Disciplinary Action</b>	1	11	5	10

A large majority of subsequent arrests are for violation of Vehicle Code section 23152(A) – driving under the influence of alcohol, violation of Penal Code section 488 – petty theft, or other minor misdemeanor violations. Some of the conviction cases referred for disciplinary action included possession/use of controlled substance, assault with a deadly weapon, terrorist threat, grand theft, multiple DUIs, stalking, and petty thefts with priors. In some cases, the subsequent arrest indicates a serious felony arrest such as lewd and lascivious acts, sexual battery or manslaughter, which requires immediate action while the criminal case slowly winds its way through the court system. In those cases, the Board requests a Penal Code section 23 Order.

### Process Overview

Subsequent arrest notifications are received through the Department of Justice Secure Server (email) or through the mail. The procedure for processing subsequent arrest notifications is as follows: Receipt of all subsequent arrest notifications is entered on the Applicant Tracking System (ATS). Jurisdiction is determined. If the application for registration or licensure has been abandoned, or if the registration has cancelled and an application for licensure has not been filed, the subsequent arrest notification is returned to the Department of Justice as “no longer interested,” pursuant to Penal Code Section 11105.2(d)

Once jurisdiction is determined, the subsequent arrest notification is opened on the CAS enforcement tracking as a BBS internal complaint. The assigned technician or analyst requests the arrest report from the appropriate arresting agency and sends a letter to the subject requesting a detailed explanation regarding the arrest. After gathering all the information and court documents, the analyst determines if the case should be transmitted to the Attorney General's Office for preparation of an Accusation.

Most subsequent arrest notifications and the resulting conviction do not result in disciplinary action. In evaluating the criminal conviction and when determining the appropriate enforcement action, the analyst considers the following criteria:

- Nature and severity of the crime(s) under consideration as grounds for suspension or revocation.
- Evidence of any crime(s) committed prior to the crime(s) under consideration as grounds for suspension or revocation.
- The time that has elapsed since commission of the crime(s).
- Whether the licensee has complied with any terms of probation, parole, restitution or any other sanctions lawfully imposed against the licensee.
- Evidence, if any, of rehabilitation submitted by the licensee.

#### Attachments

1. Sample Subsequent Arrest Notification from the Department of Justice
2. Sample Request for Certified Court Documents used by the Board

# Attachment 1

Sample Subsequent Arrest Notification  
from the Department of Justice

Subject: Subsequent Arrest Notification (SARSID:1423404.782312)

Date: Fri, 24 Mar 2006 16:14:12 -0800 (PST)

From: California Department of Justice <cadojsa@hdcdojnet.state.ca.us>

To: A01484@SMSS.DIJ.CA.GOV

Attn: [REDACTED]  
State of California  
Department of Justice  
Bureau of Criminal Identification and Information  
P.O. Box 903417  
Sacramento, CA 94203-4170

Date: March 24, 2006

CASBBEHAVIORAL SCI EXAM  
1625 N MARKET BLVD STE S200  
SACRAMENTO, CA 95834

Subsequent Arrest Notification  
Furnished pursuant to your prior Applicant Fingerprint Submission

\*This information is for OFFICIAL USE ONLY\*  
Unauthorized use is a Criminal Offense

This information is being provided pursuant to Section 11105.2 of the California Penal Code and was verified at the time of submission. It is the responsibility of the authorized agency receiving the information to obtain independent validation of the current status of the arrest charge(s) prior to making any decision relating to the employment, licensing, or certification of the subject of this notice.

If this subject is no longer employed, licensed, or certified by your agency, Section 11105.2(d) of the Penal Code requires you to return this notification with the notation "No Longer Interested." This information will update our records.

CII/[REDACTED]  
DOB/[REDACTED]  
NAM/01 [REDACTED]  
SOC/[REDACTED]  
\*\*\*\*

APPLICANT:

19920603 CASBBEHAVIORAL SCI EXAM NAM: [REDACTED]  
SACRAMENTO  
01 [REDACTED]  
APPLICANT LICENSE CERT OR PERMIT  
COM [REDACTED] 3

\*\*\*\*

ARR/DET/CITE:

20060320 CAPDANAHEIM NAM: [REDACTED]  
01: [REDACTED]  
23152(B) VC-DUI ALCOHOL/0.08 PERCENT  
02:  
23152(A) VC-DUI ALCOHOL/DRUGS

ACTION PENDING

\* \* \* END OF MESSAGE \* \* \*  
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